BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

JANICE CLOPTON)
Claimant VS.)) Dealtat No. 402 044
DREAM HOMES, INC. Respondent) Docket No. 193,914
AND	
CINCINNATI INSURANCE COMPANY Insurance Carrier	}

ORDER

Claimant requests review of the Preliminary Hearing Order of Administrative Law Judge Alvin E. Witwer entered in this proceeding on March 30, 1995.

ISSUES

The Administrative Law Judge authorized claimant to obtain medical treatment from Edward J. Prostic, M.D., at respondent's expense. The respondent and insurance carrier request this review and contend the Administrative Law Judge exceeded his authority in entering this order. That is the sole issue now before the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

Although the respondent and insurance carrier have attempted to frame the issue as one involving the change of an authorized physician, the Appeals Board finds the issue is one involving the appointment of an authorized physician when medical treatment is

necessary but not being provided by respondent. Therefore, the Appeals Board finds the Administrative Law Judge did not exceed his jurisdiction and authority in appointing Dr. Prostic as the authorized physician. When the parties reach preliminary hearing and the administrative law judge finds medical treatment is necessary, but the respondent is not at that time providing the needed treatment, the administrative law judge may authorize a specific physician under the provisions of K.S.A. 44-510(b). That statute provides that an injured worker may seek and provide medical services for himself at the cost of the respondent, when the respondent knows of the injury and those services are not being provided.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order entered by Administrative Law Judge Alvin E. Witwer on March 30, 1995 is affirmed.

Dated this day of Ju	uly, 1995.
	BOARD MEMBER
	BOARD MEMBER
	BOARD MEMBER

c: John J. Bryan, Topeka, Kansas Anton C. Andersen, Kansas City, Kansas Alvin E. Witwer, Administrative Law Judge David Schufelt, Acting Director

IT IS SO ORDERED.